

Application No. 10/679,916  
Docket No. IB-10 (A4-1766)  
Amendment dated January 16, 2007  
Reply to Office Action of September 13, 2006

### **REMARKS**

In the Office Action, the Examiner reviewed claims 1-21, 23, 24, and 29-38, with the result that an objection to the specification and claim rejections under 35 USC §§101 and 112 were withdrawn, dependent claims 36 and 38 were deemed to recite allowable subject matter, and the remaining claims were rejected under 35 USC §102 or §103.

In response, Applicants have canceled dependent claim 36 (without prejudice to Applicants) and incorporated its limitations into its parent independent claim 1 pursuant to the Examiner's conclusion that claim 36 recites allowable subject matter. In addition, claims 37 and 38 (which depend from claim 36) has been amended to depend directly from claim 1. As such, independent claim 1 and claims depending therefrom are believed to be allowable over the prior art of record.

In addition, claims 19 and 20 (which depend from claim 1) have been amended to recite "congestive heart failure" as a particular heart disease that the claimed cardiac conduit system can be used to treat. Applicants believe that support for "congestive heart failure" is encompassed and inherent from the recitation in original claim 1 ("system for monitoring one or more physiological parameters for diagnosis of cardiac condition in patients heart

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disease"), and does not broaden the scope of claims 19 and 20, the latter of which already recited the use of the cardiac conduit system for "heart disease patients."

Applicants believe that the above amendments do not present new matter, and amend independent claim 1 to incorporate all limitations of a dependent claim cited by the Examiner as being allowable.<sup>1</sup> Accordingly, Applicants respectfully request withdrawal of the remaining rejections under 35 USC §102 and §103.

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<sup>1</sup> MPEP §714.13 instructs:


The refusal to enter the proposed [Rule 116] amendment should not be arbitrary. The proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified.

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**Closing**

Should the Examiner have any questions with respect to any matter  
now of record, Applicants' representative may be reached at (219) 462-4999.

Respectfully submitted,

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January 16, 2007  
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Attachment(s): Petition for Extension of Time (two copies)